

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08  
EA-12 FRB-01 INR-10 IO-14 NEA-11 NSAE-00 ICA-20  
OPIC-06 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00  
OMB-01 SS-15 DODE-00 DOTE-00 FMC-02 CG-00 DLOS-09  
OES-07 L-03 OIC-02 CTME-00 /147 W  
-----022964 222124Z /73

R 222054Z JUN 78  
FM AMEMBASSY PARIS  
TO SECSTATE WASHDC 3734

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PASS DOT FOR DRISCOLL, LARSEN AND MONEY; MARAD FOR  
BOURDON; COMMERCE FOR FREE, AND FMC FOR KEHOE

E.O. 11652: N/A  
TAGS: EWWT, OECD  
SUBJECT: MARITIME TRANSPORT COMMITTEE'S SPECIAL GROUP  
ON INTERNATIONAL ORGANIZATIONS, JUNE 14-16

REF: MT/GS/A/78.1

1. SUMMARY - MTC'S SPECIAL GROUP ON INTERNATIONAL  
ORGANIZATIONS MET JUNE 14-16 TO CONSIDER PREPARATIONS  
FOR 5TH INTERGOVERNMENTAL PREPARATORY GROUP (IPG)  
AN INTERNATIONAL MULTIMODAL TRANSPORT CONVENTION,  
UNCTAD V, AND GENERAL RELATIONS WITH UNCTAD. ALL  
DELS AGREED GROUP B SHOULD REITERATE IN STRONGEST AND  
CLEAREST TERMS TO G-77 THAT IT WILL NOT ACCEPT A PUBLIC  
LAW CONVENTION. (A DRAFT STATEMENT WILL BE CIRCULATED  
TO ALL DELS FOR COMMENT BEFORE SEPT. TO BE FINALIZ-  
ED AT FIRST GROUP B MEETING IN GENEVA.)  
WHILE MOST DELEGATIONS FAVORED AN OPTIONAL CONVENTION,  
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CONSENSUS FOR PREFERRED LIABILITY SCHEME WAS NOT  
ACHIEVED SINCE SEVERAL DELS STRONGLY SUPPORT A PURE  
NETWORK SYSTEM. ALTHOUGH NO DELEGATION WAS PREPARED  
TO WITHDRAW FROM IPG AT THIS TIME, MANY SPOKE OF  
POSSIBLE POSTPONEMENT, WITHDRAWAL, ETC. IF IPG-5 GOES  
AGAINST GROUP B. END SUMMARY.

## 2. GENERAL DISCUSSION -

THE UK OPENED DISCUSSION REITERATING THAT AN APPROPRIATE PRIVATE LAW CONVENTION WOULD BE USEFUL BUT NOT NECESSARY, AND THAT UK WOULD ACCEPT IPG-3 COMMON UNDERSTANDING (CU) AS A FRAMEWORK. UK FEARS, HOWEVER, THAT IPG IS IN PROCESS OF DRAFTING A POTENTIALLY DAMAGING CONVENTION WHICH A DIPLOMATIC CONFERENCE WOULD NOT BE LIKELY TO REPAIR. THUS, UK PROPOSED THAT GROUP B AT IPG-5 REFUSE TO PROCEED BEYOND ANY ISSUES NOT DEALT WITH IN THE COMMON UNDERSTANDING. UK FELT THIS WOULD MINIMIZE CHANCE THAT G-77 WOULD TRADE-OFF SQUARE BRACKETS, LEAVING GROUP B WITH UNACCEPTABLE PROVISIONS. MOST DELS AGREED WITH UK THAT THE THREAT OF WITHDRAWAL IS NOT A PRACTICAL TACTIC. FRENCH DEL SAID GOF DOES NOT NEED BUT COULD ACCEPT AN APPROPRIATE PRIVATE LAW CONCEPT. HE ADDED THAT CUSTOMS, AS A PUBLIC LAW MAKER, IS NOT TROUBLESOME BECAUSE THE "DRAFT GUIDELINES" ARE INNOCUOUS. FRENCH ARE MORE TROUBLED WITH NOTION OF PRIOR CONSULTATIONS. FRANCE CAN ONLY ACCEPT AN OPTIONAL CONVENTION WHICH WOULD "SUPPLEMENT" EXISTING CONVENTIONS. US DEL SAID OUR PRIMARY CONCERN IS THAT G-77 KNOW THAT GROUP B CANNOT ACCEPT A CONVENTION WITH OPERATIVE PUBLIC LAW PROVISIONS, AND THAT A BADLY DRAWN CONVENTION WOULD BE DAMAGING TO GROUP B INTERESTS, EVEN IF IT NEVER CAME INTO FORCE. ALL DELEGATIONS AGREED WITH US VIEW.

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NETHERLANDS, JAPAN, UK DELS SAID BECAUSE HAMBURG CONFERENCE REJECTED AN ARTICLE ON MULTIMODAL TRANSPORT, THE ONLY POSSIBLE LIABILITY SYSTEM FOR MTO WAS THE "NETWORK" SYSTEM. NORWAY AND GERMANY SUGGESTED DIFFERENT ALTERNATIVES WHICH WILL BE APPENDED TO MTC7S REPORT. IPG CHAIRMAN SELVIG (NORWAY) CONCLUDED THIS DISCUSSION BY NOTING THE IPG COULD BE TERMINATED IF ALL GROUPS AGREED NO FURTHER PROGRESS WAS POSSIBLE, AND SUGGESTED THAT A MULTIMODAL CONVENTION COULD BE PURSUED IN OTHER FORUMS SUCH AS UNCTAD'S COMMITTEE ON SHIPPING.

## 3. TACTICS

UK PROPOSED A STRONG GROUP B POSITION FOR SEPTEMBER TALKS, I.E., REFUSE TO DISCUSS NEW ISSUES UNTIL GROUP B IS SATISFIED WITH RESOLUTION OF OUTSTANDING ISSUES. US PROPOSED A STRONG STATEMENT BE MADE EARLY IN SEPTEMBER PLENARY MEETING THAT GROUP B CANNOT ACCEPT ANY OPERATIVE PROVISIONS RELATING TO PUBLIC LAW; THAT ANY PUBLIC LAW REFERENCES REQUIRED BY THE COMMON UNDERSTANDING MUST BE TREATED AS

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NON-OPERATIVE. ALL AGREED THAT A STRONG STATEMENT  
NEED NOT BE CONFRONTATIONAL WHICH MIGHT RESULT IN  
G-77 CLOSING RANKS. IN CLOSING DISCUSSION, DELEGA-  
TIONS AGREED THAT APPROACH OUTLINED BY UK AND US  
SHOULD BE PURSUED IN GENEVA.

#### 4. CUSTOMS

VIRTUALLY ALL DELEGATIONS REAFFIRMED THEIR OPPOSITION  
TO CUSTOMS PRINCIPLES. SWEDEN HOWEVER SUGGESTED  
CUSTOMS PROVISIONS COULD BE USEFUL IN FACILITATING  
MULTIMODAL TRADE. FRG, US AND BELGIUM COUNTERED THAT  
TO GIVE ON CUSTOMS WOULD UNDERCUT GROUP B OPPOSITION  
TO PUBLIC LAW.

#### 5. CONSULTATIONS

ALL AGREED THAT A CONVENTION WITH MANDATORY CONSULTA-  
TIONS WAS UNACCEPTABLE. FRANCE WAS MOST INSISTENT  
THAT CONSULTATIONS OCCUR ONLY WITHIN EXISTING MARITIME  
MECHANISMS.

#### 6. CONFLICT OF LAWS

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ON "CONFLICT OF LAWS", NETHERLANDS, UK AND JAPAN ARGUED THAT HAMBURG CONFERENCE MADE NETWORK SYSTEM THE ONLY LEGALLY POSSIBLE REGIME FOR AN MT CONVENTION. OTHER DELS SUGGESTED HAMBURG ACTION NEVER INTENDED TO PRE-JUDGE IPG WORK AND PARTIES TO BOTH CONVENTIONS COULD AGREE THAT MT RULES COULD TAKE PRIMACY OVER HAMBURG. GERMANY, NORWAY, FRANCE WILL CIRCULATE PAPERS OUTLINING THEIR THEORIES.

7. LIABILITY AND INSURANCE -

CANADA INTRODUCED A DISCUSSION PAPER WHICH ATTEMPTED TO FURTHER DEVELOP GROUP B POSITION EXPRESSED AT 3RD IPG WHICH FAVORED A HYBRID "UNIFORM/NETWORK" REGIME. (AT THAT TIME ONLY JAPAN DISAGREED, INSISTING ON ITS ORIGINAL PREFERENCE FOR THE NETWORK SYSTEM.) NETHERLANDS, UK, JAPAN, FRANCE AND BELGIUM URGED GROUP B TO REVERSE ITSELF AND SUPPORT THE NETWORK SCHEME. MOST OTHER DELEGATIONS COUNTERED THAT SUCH REVERSAL WOULD FORFEIT GROUP B'S CREDIBILITY, AND IT COULD BE ACCUSED OF BAD FAITH. THEY ADDED THAT GROUP B'S ABILITY TO CARRY OUT STRATEGY OF REPULSING PUBLIC LAW PROVISIONS DEPENDS HEAVILY UPON ITS BEING ABLE TO COME TO GENEVA WITH POSITIVE AND UNIFIED POSITIONS ON THE MAJOR PRIVATE LAW ISSUES. THESE DELEGATIONS URGED SUPPORTERS OF NETWORK SYSTEM TO E COMPROMISE THEIR VIEWS AS MANY DELEGATIONS WHICH FORMERLY FAVORED A UNIFORM SYSTEM HAD ALREADY DONE. THE BEST RESULTS HINZ COULD OBTAIN ON THIS POINT WAS AGREEMENT THAT NETWORK SUPPORTERS WOULD CAREFULLY REVIEW POSITIONS IN LIGHT OF NEED FOR GROUP B UNITY BEFORE SEPTEMBER, AND NOT PUBLICLY EXPRESS DISAGREEMENT WITH CURRENT GROUP B POSITION ON LIABILITY AND INSURANCE.

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## Message Attributes

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